

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Keyne Jean Villert	Team: Squad #14	CCRB Case #: 201407692	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 07/26/2014 9:00 PM	Location of Incident: Intersection of Madison Avenue and East 125th Street	Precinct: 25	18 Mo. SOL 1/26/2016	EO SOL 1/26/2016	
Date/Time CV Reported Tue, 07/29/2014 6:18 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 07/29/2014 6:18 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			Unknown
2. POM Christophe Ciccolo	06731	948784	025 PCT
3. POM Frankie Soler	27130	946278	025 PCT
4. POM Robert Dinuzzo	13012	952689	PSA 5
5. An officer			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kevin Smith	10832	955508	PBMN
2. POF Keerandai Bhawanideen	23981	954549	PBMN
3. POM Jon Derise	06394	938331	025 PCT
4. LT James Lombardi	00000	897890	025 PCT
5. CPT Levon Holley	00000	923959	028 PCT
6. SGT Christophe Treubig	05617	935869	PBMN

Officer(s)	Allegation	Investigator Recommendation
A. POM Robert Dinuzzo	Force: PO Robert Dinuzzo used physical force against § 87(2)(b)	
B. An officer	Force: An officer used physical force against § 87(2)(b)	
C. Officers	Force: Officers used pepper spray against § 87(2)(b) Timothy, and individuals.	
D. POM Robert Dinuzzo	Abuse: PO Robert Dinuzzo arrested § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

## Case Summary

On July 26, 2104, at approximately 9 p.m., § 87(2)(b) left a cookout, § 87(2)(b) at Marcus Garvey Park in Manhattan, with his friends § 87(2)(b) (or Soute), § 87(2)(b) § 87(2)(b) § 87(2)(b) and his friends were headed toward the intersection of East 125<sup>th</sup> Street and Madison Avenue when they observed a large group of individuals arguing. The group was composed of members of two different religious organizations, § 87(2)(b). The argument eventually escalated to fighting between the two organizations, at which point a large number of officers from several commands responded to the scene. At some point, an officer, identified via investigation as PO Robert Dinuzzo from Police Service Area 5, approached § 87(2)(b) and allegedly repeatedly punched him in the face (**Allegation A**). PO Dinuzzo eventually brought § 87(2)(b) down to the ground, where § 87(2)(b) was restrained on his stomach by PO Dinuzzo and multiple unidentified officers. While on the ground, an unidentified officer allegedly pressed one of his knees on the head of § 87(2)(b) causing one of § 87(2)(b)'s teeth to chip against the ground (**Allegation B**). One of § 87(2)(b)'s acquaintances, § 87(2)(b) was also present from the initiation of the dispute and was also arrested. At another point, an unidentified officer allegedly discharged pepper-spray at civilians, including § 87(2)(b) friend who was only identified as "§ 87(2)(b) § 87(2)(b) and other unidentified members of the crowd (**Allegation C**). Later, § 87(2)(b) was handcuffed, transported to the 25<sup>th</sup> Precinct stationhouse, and then transported to § 87(2)(b). § 87(2)(b) was released without any charges against him (**Allegation D**).

This case was originally assigned to Inv. Shevani Patel on August 6, 2014, and was then reassigned to Inv. Yanjiao Chen, from the Case Closing Unit, on December 31, 2014. On January 14, 2015, this case was reassigned to the undersigned Case Closing Unit investigator following Inv. Chen's resignation from the CCRB.

§ 87(2)(g)

## Mediation, Civil and Criminal Histories

- This case was not eligible for mediation because § 87(2)(b) sustained injuries, and he and § 87(2)(b) were arrested, as a result of this incident.
- § 87(2)(b) and his attorney, § 87(2)(b), filed a notice of claim with the City of New York on § 87(2)(b), claiming that § 87(2)(b) was grabbed, "savagely beaten," "hit," kneed, physically restrained, and threatened with "grave bodily harm" by officers, and seeking an undetermined amount of money as redress. The claim indicates that § 87(2)(b) sustained a broken nose, facial swelling, a bruised shoulder, bleeding to his left eye, lacerations to his mouth, a broken tooth, and a dislocated jaw as a result of this incident. (See Board Review 21).
- The transcript of the 50-h hearing in regards to this civil lawsuit, § 87(2)(b) § 87(2)(a) Gen.Mun. §50-H(3)
- As of May 12, 2015, approximately seven months following the expiration of the filing deadline, § 87(2)(b) and any person named "§ 87(2)(b)" have not filed a notice of claim with the City of New York in regard to this incident.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) or § 87(2)(b) (See Board Review 10).
- There are no prior substantiated CCRB allegations against PO Dinuzzo; however one force allegation has previously been pled against him and was closed as complainant uncooperative.

### Officers Not Interviewed

- § 87(2)(g) This incident involves a large melee, and a large number of officers (at least 18 units and likely 32 officers) from several commands responded to the scene. PO Dinuzzo testified that he and PO Sannella separated upon their arrival at the scene. § 87(2)(g)

### Police Documents

- The print-outs related to Events D14072625511 and D14072625470 indicate that at least eighteen different units from several different commands arrived at the scene over the course of this incident. Only two arrests and one injured officer are noted. (See Board Review 16).
- The AIDED report filed for PO Dinuzzo indicates that, while he was trying to arrest a resisting perpetrator, unidentified officers assisted him and landed on his right leg, causing pain to his right calf and knee. (See Board Review 17).
- The 25<sup>th</sup> Precinct Command Log indicates that § 87(2)(b) and § 87(2)(b) arrived at the stationhouse at 10:30 p.m. § 87(2)(b)'s physical condition is only noted as "injury," whereas the condition of § 87(2)(b) is noted as apparently normal. (See Board Review 18).
- Lt. James Lombardi of the 25<sup>th</sup> Precinct completed an Unusual Occurrence Report indicating that approximately a hundred civilians from different religious organizations engaged in a fight, which was then brought under control by approximately fifty officers, resulting in two arrests and one injured officer. The report notes that supervisors from Police Service Area 5, Police Service Area 6, the 23<sup>rd</sup> Precinct, the 25<sup>th</sup> Precinct, and the 28<sup>th</sup> Precinct were present at the scene. Lt. Lombardi, PO Frankie Soler, and PO Christopher Ciccolo of the 25<sup>th</sup> Precinct are listed as the officers who first observed the group of civilians at § 87(2)(b) and then made a call for assistance when the fight broke out. The report further notes that the fight involved members of the § 87(2)(b) (See Board Review 15).

- Capt. Levon Holley of the 28<sup>th</sup> Precinct also completed an Unusual Occurrence Report, which was generally consistent with the one filed by Lt. Lombardi. However, this report also notes that, while Sgt. Christopher Treubig of Patrol Borough Manhattan North was dispersing the crowd, he observed § 87(2)(b) injured, handcuffed, and unattended. The report also notes that Sgt. Treubig reported to Capt. Holley that an unidentified plainclothes officer stood nearby § 87(2)(b) at the scene but did not know who had handcuffed him. The report goes further in explaining that § 87(2)(b) was transported to the 25<sup>th</sup> Precinct stationhouse, where he was interviewed by Capt. Holley, and stated that he was attempting to break up the fight when a uniformed officer struck him on the left side of his face, threw him down to the ground, and then knelt him in the face, causing one of his teeth to chip. It is noted that a canvass for video footage of the incident yielded negative results. (See Board Review 14).
- Video footage captured by the ARGUS cameras at the incident location do not show the melee or the arrestees. Instead, one of the cameras captured a large group of pedestrians standing in or walking through the area, whereas the other one captured the arrival and departure of several patrol cars and officers at the scene. (See Board Review 22).
- The arrest report for § 87(2)(b) indicates that he engaged in fighting at the scene and that pepper-spray was retrieved from his person. The handwritten copy of the report lists that no force was used to arrest § 87(2)(b) whereas the electronic copy instead lists that unspecified force was used. (See Board Review 23).

### **Medical Records**

- § 87(2)(b)'s medical records indicate that he arrived at § 87(2)(b) at § 87(2)(b). There, § 87(2)(b) stated that he was assaulted and that he sustained pain to his right shoulder and trauma to his face, including swelling to his nose, a chipped tooth, a laceration to his lips, and an unspecified injury to this left eye. § 87(2)(b) explained that he was repeatedly punched in the face with a fist and then wrestled down to the ground by officers. A CT-scan of § 87(2)(b)'s face revealed a mildly displaced left nasal bone and a moderately displaced right nasal bone fracture. The records note that the following were observed on § 87(2)(b) two chipped teeth, moderate swelling to his left eye area, swelling to his nose, and contusions and abrasions to his face. § 87(2)(b) was released and prescribed ibuprofen (an anti-inflammatory drug and analgesic).
- § 87(2)(b)'s medical records also indicate that he was also evaluated at § 87(2)(b) as a follow-up to his above-detailed visit. The evaluation determined that § 87(2)(b) had a fractured nose, fractured dental restorative material with loss of material, and a subconjunctival hemorrhage (bleeding in the eye).

### **Other Evidence**

- A Google Search inquiry for § 87(2)(b) revealed a YouTube profile page maintained by a user with his name. The page indicates that the user is currently subscribed to channels, including one named § 87(2)(b) (See Board Review 19).

### **Potential Issues**

- Attempts to contact § 87(2)(b) (or § 87(2)(b) § 87(2)(b) and the victims and witnesses identified only as § 87(2)(b)



§ 87(2)(g)

**Allegation A – Force: PO Robert Dinuzzo used physical force against § 87(2)(b)**

§ 87(2)(b) stated that he observed the fight, rushed closer to the fight, and then shouted at the crowd to stop fighting while standing away from it. § 87(2)(b) explained that he eventually walked away and then returned closer to the fight, at which point PO Dinuzzo punched him three times in the face, brought him down to the ground, and then handcuffed him. § 87(2)(b) denied that he was a member of one of the religious organizations involved in the fight. § 87(2)(b) added that he met § 87(2)(b) on the date of the incident. (See Board Review 06 and 09).

§ 87(2)(b) stated that he initially observed § 87(2)(b) a member of his religious organization, stand away from the melee and that he did not observe § 87(2)(b)'s apprehension. § 87(2)(b) did not observe § 87(2)(b) participate in the melee. § 87(2)(b) explained that he was involved in the fighting and that § 87(2)(b) informed him that § 87(2)(b) was apprehended after having attempted to aid him. (See Board Review 03 and 04).

§ 87(2)(b) explained that he did not observe § 87(2)(b)'s apprehension; however, he remembered having witnessed § 87(2)(b) who was not participating in the melee at the time, instruct the group to stop fighting. § 87(2)(b) also explained that he was involved in the melee and that § 87(2)(b) punched him. (See Board Review 01).

§ 87(2)(b) stated to IAB that § 87(2)(b) a member of his religious organization, was not participating in the melee, but was instead attempted to break up the fight. § 87(2)(b) stated that he observed an officer punch § 87(2)(b) and then fall down to the ground.

PO Dinuzzo stated that he first observed § 87(2)(b) fight with an unidentified civilian, at which point he wrapped his arms around § 87(2)(b) tried to handcuff him, and eventually brought him down to the ground. PO Dinuzzo said § 87(2)(b) resisted being arrested by refusing to place his hands behind his back, by trying to escape PO Dinuzzo's grip, and by wrapping his arms around PO Dinuzzo in what appeared to be an attempt to bring PO Dinuzzo to the ground. PO Dinuzzo pushed § 87(2)(b)'s arms off him in order to keep § 87(2)(b) away from his firearm, and then pushed § 87(2)(b) toward the ground. PO Dinuzzo eventually straddled § 87(2)(b) who was stomach down, and placed him in handcuffs there with the assistance of unidentified officers. PO Dinuzzo did not recall having punched § 87(2)(b) or having observed any officer do so.

Each of the additional interviewed officers denied having witnessed § 87(2)(b)'s apprehension.

§ 87(2)(b)'s medical records indicate that he sustained swelling to his face, contusions and abrasions, at least one broken tooth, and a fracture to his face.

A YouTube page shows that a user with § 87(2)(b)'s name is subscribed to the § 87(2)(b) page.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

According to Patrol Guide section 203-11, only the amount of force necessary to overcome resistance will be used to effect an arrest (See Board Review 24).

§ 87(2)(g)

**Allegation B – Force: An officer used physical force against § 87(2)(b)**

§ 87(2)(b) alleged in his sworn statement that, after he was brought down, he laid flat on his stomach, at which point he was pinned down with the knees of unidentified officers. § 87(2)(b) explained that some of the knees of an officer, who he could not see, was pressed against his head and caused one of his teeth to chip and his chin and forehead to bruise.

PO Dinuzzo denied having pressed § 87(2)(b)'s head against the ground, or remembering any officer do so. However, PO Dinuzzo noted that § 87(2)(b) resisted while on the ground by refusing to place his hands behind his back and that the officers were not able to handcuff him until a few minutes after he was brought down.

None of the other interviewed parties made any indication that an officer pressed § 87(2)(b)'s head against the ground. However, § 87(2)(b) was restrained by multiple officers in the midst of an on-going melee, so some of the officers' actions would not have been visible to the witnesses of § 87(2)(b)'s apprehension.

§ 87(2)(g)



§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Force: Officers used pepper spray against § 87(2)(b)**

§ 87(2)(b) **and individuals.**

§ 87(2)(b) reported having been informed by § 87(2)(b) that § 87(2)(b) was pepper-sprayed by an unidentified officer; however, § 87(2)(b) did not observe this instance.

§ 87(2)(b) stated in his first phone statement that an unidentified officer pepper-sprayed him and “§ 87(2)(b). In his sworn statement, § 87(2)(b) stated that an unidentified officer pepper-sprayed “§ 87(2)(b) but made no indication that he was also pepper-sprayed. In a follow-up second phone statement, § 87(2)(b) stated that an unidentified officer pepper-sprayed a crowd, without specifying the victims. It should be noted that § 87(2)(b) made no indication that he showed symptoms of a person who was pepper-sprayed.

§ 87(2)(b) stated that he was punched by § 87(2)(b) and that he later pointed out § 87(2)(b) who was arrested, to officers. § 87(2)(b) denied having observed any officers discharge pepper-spray during the incident.

§ 87(2)(b) made no indication that he was pepper-sprayed in his IAB interview.

None of the interviewed officers corroborated that pepper-spray was used during the incident.

The arrest report for § 87(2)(b) indicates that he engaged in fighting at the scene and that a pepper-spray was retrieved from his person. The written copy of the report lists that no force was used to arrest § 87(2)(b) whereas the electronic copy instead lists that unspecified force was used. The arrest photographs of § 87(2)(b) show no visible signs that he was pepper-sprayed.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation D – Abuse of Authority: PO Robert Dinuzzo arrested § 87(2)(b)**

It is undisputed that § 87(2)(b) was arrested and brought to the stationhouse, where his arrest was then voided. § 87(2)(g)

PO Dinuzzo, however, stated that he observed § 87(2)(b) fight an unidentified individual and thus decided to arrest him for fighting. PO Dinuzzo explained that he left the scene for the hospital soon after § 87(2)(b) was handcuffed. Each of the additional officers interviewed denied that they were privy to § 87(2)(b)'s arrest.

Capt. Holley explained that § 87(2)(b) was released without any charges because no complainant against him could be located.

§ 87(2)(b) indicated that he was not participating in the fighting, but was instead acting as a peacemaker and attempting to defuse the situation. § 87(2)(b) stated that he observed § 87(2)(b) in handcuffs at the conclusion of this incident. § 87(2)(b) denied having observed § 87(2)(b) participate in the fighting and remembered § 87(2)(b) telling people to stop fighting during the melee; however, it is unlikely that § 87(2)(b) observed the entirety of § 87(2)(b)'s actions at the scene due to the large scale of this incident and his own participation in the fight.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Pod: 14

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Supervisor: \_\_\_\_\_

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date